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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,989	04/26/2001	Xiaolin Lu	TI-24317.1	9741

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EXAMINER	
DUONG, FRANK	
ART UNIT	PAPER NUMBER
2666	

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/842,989	LU ET AL.	
	Examiner	Art Unit	
	Frank Duong	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 April 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *64-75* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *64-75* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is a response to the Preliminary Amendment dated 04/26/01.

Claims 64-75 are pending in the application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 64-75 are rejected under 35 U.S.C. 102(e) as being anticipated by Polley et al (USP 5,999,563) (hereinafter "Polley").

Regarding **claim 64**, in accordance with Polley reference entirety, Polley discloses a communication system (*FIGs. 3 and 10, col. 10, line 6 to col. 29, line 22*) comprising:

a computer (*Fig. 3a; 310*), comprising

a memory (*memory inside 310*) operable to store a computer program,

a processor (*Fig. 3a; 310*) operable to execute said computer program, and control means (Fig. 3a; 310) for issuing a command in response to the computer program, the command including a request to configure a line for communication in

accordance with a plurality of line attributes (*FIG. 10a, LineConfigure request and response between host computer (310) and MDSL modem (100)*); and

a first modem (*Fig. 3a; 100*) coupled to the control means for receiving the command and for negotiating with a second modem (Fig. 3a; 220) for grant of the line attributes (*col. 12, lines 47-49*); wherein a first of the plurality of line attributes is a communications mode (*col. 12, lines 31 to col. 13, lines 21*).

Regarding **claim 65**, in addition to features recited in base claim 64 (see rationales discussed above), Polley further discloses wherein said communications mode is one of a leased line mode and a modem dial up mode (*col. 25, lines 46-56*).

Regarding **claim 66**, in addition to features recited in base claim 64 (see rationales discussed above), Polley further discloses wherein a second of the plurality of line attributes is a framing protocol (*col. 26, lines 39-63, Polley discloses the LineConfigure commands to include a specified one of framing protocols*).

Regarding **claim 67**, in addition to features recited in base claim 66 (see rationales discussed above), Polley further discloses wherein the framing protocol is one of a plurality of protocols including point-to-point protocol (*col. 26, lines 39-63, Polley discloses the LineConfigure commands to include a point-to-point protocol (HDLC)*).

Regarding **claim 68**, in addition to features recited in base claim 64 (see rationales discussed above), Polley further discloses wherein a second of the plurality of line attributes is a signaling protocol (col. 26, lines 39-63).

Regarding **claim 69**, in addition to features recited in base claim 64 (see rationales discussed above), Polley further discloses wherein a second of the plurality of line attributes is a speed definition (*col. 26, lines 39-63*; IN TxSpeed or IN RxSpeed).

Regarding **claim 70**, in addition to features recited in base claim 69 (see rationales discussed above), Polley further discloses wherein the speed definition specifies one of a plurality of selectable rates of data transfer (*col. 20, lines 41-42 pertaining a number of signal data format or col. 26, lines 39-63 pertaining TxSpeed and RxSpeed*).

Regarding **claim 71**, in addition to features recited in base claim 64 (see rationales discussed above), Polley further discloses wherein a second of plurality of line attributes is a quality of service ((*col. 12, lines 31 to col. 13, lines 21; line code capability and channel model between modems*) **or** (*in according to FIGS. 10d-10g, col. 26, lines 39-63 and col. 27, 46 to col. 28, line 47, Polley discloses the LineConfigure commands exchange between MDSL-R and MDSL-C to include a specified one of framing protocols, signaling protocols and data rates. Moreover, at col. 6, lines 10-13 and lines 34-37, Polley further discloses that the throughput can be maximized based on the individual line conditions and there is an internal state machine for monitoring and notifying line status inside the MDSL modem. Furthermore, at col. 13, lines 19-21, Polley further discloses that rate change during a communication session due to user choice or line condition is allowed*)).

Regarding **claim 72**, in accordance with Polley reference entirety, Polley discloses a communication system (*FIGs. 3 and 10, col. 10, line 6 to col. 29, line 22*) comprising:

a computer (*Fig. 3a; 310*), comprising

a memory (*memory inside 310*) operable to store a computer program,

a processor (*Fig. 3a; 310*) operable to execute said computer program, and control means (Fig. 3a; 310) for issuing a command in response to the computer program, the command including a request to configure a line for communication in accordance with a plurality of line attributes (*FIG. 10a, LineConfigure request and response between host computer (310) and MDSL modem (100)*); and

a first modem (*Fig. 3a; 100*) coupled to the control means for receiving the command and for negotiating with a second modem (Fig. 3a; 220) for grant of the line attributes (*col. 12, lines 47-49*); wherein a first of the plurality of line attributes is a quality of service ((*col. 12, lines 31 to col. 13, lines 21; line code capability and channel model between modems*) **or** (*in according to FIGS. 10d-10g, col. 26, lines 39-63 and col. 27, 46 to col. 28, line 47, Polley discloses the LineConfigure commands exchange between MDSL-R and MDSL-C to include a specified one of framing protocols, signaling protocols and data rates. Moreover, at col. 6, lines 10-13 and lines 34-37, Polley further discloses that the throughput can be maximized based on the individual line conditions and there is an internal state machine for monitoring and notifying line status inside the MDSL modem. Furthermore, at col. 13, lines 19-21, Polley further*

discloses that rate change during a communication session due to user choice or line condition is allowed)).

Regarding **claim 73**, in addition to features recited in base claim 72 (see rationales discussed above), Polley further discloses wherein the quality of service is specified by a priority for the requested communication (*col. 25, line 44 to col. 26, line 15*).

Regarding **claim 74**, in addition to features recited in base claim 72 (see rationales discussed above), Polley further discloses wherein the quality of service is specified by a variability in bit rate for the requested communication (*col. 20, line 17 to col. 21, line 30 or col. 25, line 44 to col. 26, line 15*).

Regarding **claim 75**, in addition to features recited in base claim 72 (see rationales discussed above), Polley further discloses wherein the variability in bit rate is specified as one of a constant bit rate and a variable bit rate (*col. 20, line 17 to col. 21, line 30 or col. 25, line 44 to col. 26, line 15*).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Johnson et al (USP 5,960,036).

Sistanizadeh et al (USP 5,790,548).

Bingham (USP 5,557,612).

McCurry, Digital Subscriber Line Technology with a focus on Asynchronous Digital Subscriber Line, Southern Methodist University, pages 1-28, 1997.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Duong whose telephone number is (571) 272-3164. The examiner can normally be reached on 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank Duong
Examiner
Art Unit 2666

October 28, 2004